

## § 161.1

161.2 Definitions.  
161.3 Standards of conduct.

AUTHORITY: 15 U.S.C. 717-717w, 3301-3432; 42 U.S.C. 7101-7352.

### § 161.1 Applicability.

This part applies to any interstate natural gas pipeline that transports gas for others pursuant to subpart A of part 157, and subparts B or G of part 284 and is affiliated in any way with a natural gas marketing or brokering entity and conducts transportation transactions with its marketing or brokering affiliate. The requirements of this part also apply to pipeline sales operating units to the extent provided in § 284.286 of this chapter.

[Order 566-A, 59 FR 52904, Oct. 20, 1994]

### § 161.2 Definitions.

(a) *Affiliate*, when used in reference to any person in this part and § 250.16 of this chapter means another person which controls, is controlled by, or is under common control with, such person.

(b) *Control* (including the terms “controlling,” “controlled by,” and “under common control with”) as used in this part and § 250.16 of this chapter, includes, but is not limited to, the possession, directly or indirectly and whether acting alone or in conjunction with others, of the authority to direct or cause the direction of the management or policies of a company. A voting interest of 10 percent or more creates a rebuttable presumption of control.

(c) *Marketing or brokering* as used in this part and § 250.16 of this chapter means a sale of natural gas to any person or entity by a seller that is not an interstate pipeline, except when:

- (1) The seller is selling gas solely from its own production;
- (2) The seller is selling gas solely from its own gathering or processing facilities; or
- (3) The seller is an intrastate natural gas pipeline or a local distribution company making an on-system sale.

(d) *Potential shippers*, as used in this part and § 250.16 of this chapter, means all current transportation and sales customers of an interstate natural gas pipeline, and all persons who have pending requests for transportation

## 18 CFR Ch. I (4-1-99 Edition)

service or for information regarding transportation service on that pipeline.

(e) *Transportation*, as used in this part and § 250.16 of this chapter, includes storage, exchange, backhaul, displacement, or other methods of transportation.

[Order 566, 59 FR 32897, June 27, 1994, as amended at Order 566-A, 59 FR 52904, Oct. 20, 1994]

### § 161.3 Standards of conduct.

An interstate natural gas pipeline must conduct its business to conform to the following standards:

(a) It must apply a tariff provision relating to transportation in the same manner to the same or similarly situated persons if there is discretion in the application of the provision.

(b) It must strictly enforce a tariff provision for which there is no discretion in the application of the provision.

(c) It may not, through a tariff provision or otherwise, give its marketing affiliate preference over nonaffiliated customers in matters relating to part 284 transportation including, but not limited to, scheduling, balancing, transportation, storage, or curtailment priority.

(d) It must process all similar requests for transportation in the same manner and within the same period of time.

(e) It may not disclose to its marketing affiliate any information the pipeline receives from a nonaffiliated shipper or potential nonaffiliated shipper.

(f) To the extent it provides to a marketing affiliate information related to transportation of natural gas, it must provide that information contemporaneously to all potential shippers, affiliated and nonaffiliated, on its system.

(g) To the maximum extent practicable its operating employees and the operating employees of its marketing affiliate must function independently of each other.

(h)(1) If a pipeline offers a transportation discount to an affiliated marketer, or offers a transportation discount for a transaction in which an affiliated marketer is involved, the pipeline must make a comparable discount contemporaneously available to all